

**DURHAM, NORTH CAROLINA  
MONDAY, APRIL 21, 2008  
7:00 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chambers at City Hall with the following members present: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Absent: None.

Also present: City Manager Patrick Baker, Interim City Attorney Karen Sindelar, City Clerk D. Ann Gray and Deputy City Clerk Linda Bratcher.

Mayor Bell called the meeting to order with a moment of silent meditation and the pledge of allegiance led by Council Member Clement.

Mayor Bell read a proclamation declaring April 26 - May 4, 2008 as National Safe Kids Week presented to Theresa Cromling, Safe Kids Durham County Coordinator.

Mayor Pro Tempore Cole-McFadden congratulated the following 2008 Jr. Fire Marshal Class. She asked Fire Marshal Kenneth Crews along with his staff to include volunteers from Durham to help create a program [McFadden Connection] to keep these kids under our care and on a positive road.

Marissa Allen, Quincy Brooks, Brandon Brown, Eric Buie, Marquee Burton, Michael Burton, Aaron Chapman, Vernon Charles, Alexis Crews, Taylor Crews, Tiani Clark, Diondra Cooper, Travon Corbitt, Brandon Daniel, Evan Eaton, Alexis Green, Rickey Hall, Antonio Hart, Marc Holman, Emani Richardson, Terry Rogers III, Juwante' Suitt, Charles Thaxton, Daniel Warren and Timmy Williams

Fire Marshal Kenneth Crews thanked Council for its support and reported the Office of the State Fire Marshal indicated they want the City's program to be a role model for North Carolina; consequently, they have asked the City to do a workshop next year at the North Carolina Fire and Life Safety Conference in Greenville.

Council Members made comments on the following events attended and special recognition of individuals, organizations, etc:

Mayor Pro Tempore Cole-McFadden: Volunteer Center of Durham -- Key Volunteer Recognition Ceremony and volunteers; Neighborhood College Graduation -- City and County Staff; Community Day at Antioch Baptist Church and Rev. Michael Page -- groundbreaking ceremony to house ex-offenders.

Council Member Woodard: Earth Day -- Parks & Recreation; and Annual March Against Violence -- Police Department.

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Mayor Bell: Mayor Pro Tempore Cole-McFadden as a recipient of the Mahogany Dime Awards; Earth Day - Parks & Recreation; and TRY.

Mayor Bell asked for priority items from the City Manager, City Attorney and City Clerk. City Manager Baker asked that Consent Agenda Items 16 and 22 be referred back to the administration and asked that GBA Item 39 be heard after the Consent Agenda.

**MOTION** by Council Member Woodard seconded by Council Member Catotti to accept the City Manager's priority items was approved at 7:24 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

There were no priority items from the City Attorney and City Clerk.

Mayor Bell asked if any citizen(s) or council member(s) wanted to pull any items from the Consent Agenda. No items were pulled from the Consent Agenda.

**MOTION** by Council Member Woodard seconded by Council Member Catotti to approve the Consent Agenda was approved at 7:28 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

#### **[CONSENT AGENDA]**

#### **SUBJECT: APPROVAL OF CITY COUNCIL MINUTES**

**MOTION** by Council Member Woodard seconded by Council Member Catotti to approve City Council minutes for the March 17, 2008 City Council Meeting; and

To approve City Council minutes for the following closed sessions: February 8, 2007, April 5, 2007, June 5, 2007, August 9, 2007, September 6, 2007, September 20, 2007, October 4, 2007, November 8, 2007, November 20, 2007 and January 24, 2008 was approved at 7:28 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

#### **SUBJECT: DURHAM AREA TRANSIT AUTHORITY BOARD OF TRUSTEES - APPOINTMENT**

**MOTION** by Council Member Woodard seconded by Council Member Catotti to appoint Bruce Allen Peterson to the Durham Area Transit Authority Board of Trustees as a Regular Member with the term to expire on March 1, 2011 was approved at 7:28 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

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**SUBJECT: EQUAL BUSINESS OPPORTUNITY PROGRAM ADVISORY  
COMMITTEE - APPOINTMENTS**

**MOTION** by Council Member Woodard seconded by Council Member Catotti to reappoint Monique Velasquez (representing Non-SDBE Professional Services Firm Owner and Charles T. Wilson, Jr., (representing Non-SDBE Construction Firm Owner and to appoint Patricia E. Harris (representing SDBE Professional Services Firm Owner) to the Equal Business Opportunity Program Advisory Committee terms expiring on April 1, 2010 was approved at 7:28 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: CITIZENS ADVISORY COMMITTEE - APPOINTMENTS**

**MOTION** by Council Member Woodard seconded by Council Member Catotti to appoint Kyla Sweet-Chavez and Faith M. Thompson to the Citizens Advisory Committee with terms expiring on June 30, 2009 was approved at 7:28 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: STREET CLOSING - 507.50 LINEAR FOOT PORTION OF ONSLOW  
STREET BETWEEN WEST CLUB BOULEVARD AND AN UNNAMED  
VARIABLE WIDTH ALLEY (SC07-14)**

**MOTION** by Council Member Woodard seconded by Council Member Catotti to adopt a resolution to set a public hearing for May 19, 2008 on the proposed closing of a 507.50 linear foot portion of Onslow Street between West Club Boulevard and an unnamed variable width alley was approved at 7:28 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Resolution #9542**

**SUBJECT: STREET CLOSING - UNNAMED 20 FOOT WIDE ALLEY BETWEEN  
WEST CLUB BOULEVARD, ON THE SOUTH AND A VARIABLE  
WIDTH UNNAMED ALLEY, ON THE NORTH (SC07-15)**

**MOTION** by Council Member Woodard seconded by Council Member Catotti to adopt a resolution to set a public hearing for May 19, 2008 on the proposed closing of a 514 linear foot 20 foot alley between West Club Boulevard and a variable width alley was approved at 7:28 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Resolution #9543**

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**SUBJECT: STREET CLOSING - A VARIABLE WIDTH ALLEY AT ONSLOW STREET BETWEEN BERKELEY STREET AND LANCASTER STREET (SC07-13)**

**MOTION** by Council Member Woodard seconded by Council Member Catotti to adopt a resolution to set a public hearing for May 19, 2008 on the proposed closing of a 341 linear foot variable width alley between Berkeley Street and Lancaster Street was approved at 7:28 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Resolution #9544**

**SUBJECT: WATER AND SEWER EXTENSION AGREEMENT WITH BIGGERSTAFF & CRAWLEY AVONDALE, LLC - BIGGERSTAFF & CRAWLEY**

**MOTION** by Council Member Woodard seconded by Council Member Catotti to authorize the City Manager to enter into a water and sewer extension agreement with Biggerstaff & Crawley Avondale, LLC to serve Biggerstaff & Crawley; and

To authorize the City Manager to modify the contract prior to execution provided that such modifications do not increase the dollar amount of the contract and do not significantly decrease the obligations of the contractor was approved at 7:28 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: CMAR CONSTRUCTION SERVICES FOR CIVIC CENTER PLAZA AND ARTS COUNCIL PARKING LOT - SKANSKA USA**

**MOTION** by Council Member Woodard seconded by Council Member Catotti to authorize the City Manager to negotiate and execute Amendment No. 2 with Skanska USA Building for construction of ADA Upgrades at the Civic Center Plaza and Arts Council Parking Lot if the Guaranteed Maximum Price (GMP) does not exceed \$583,880.00;

To establish a project contingency equal to the difference between \$616,880.00 which is the full amount budgeted for construction phase services, and the final GMP; and

To authorize the City Manager to negotiate and execute change orders on the Amendment 2, provided the contact cost does not exceed the amount budgeted for construction phase services, \$616,880.00 was approved at 7:28 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

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**SUBJECT: DURHAM ARMORY RENOVATIONS CMAR CONSTRUCTION  
SERVICES AMENDMENT - SKANSKA USA**

**MOTION** by Council Member Woodard seconded by Council Member Catotti to authorize the City Manager to negotiate and execute an Amendment No. 2 with Skanska USA for construction of the Durham Armory Upgrade Project if the Guaranteed Maximum Price (GMP) does not exceed \$1,975,370.00;

To establish a project contingency equal to the difference between \$2,088,870.00 which is the full amount budgeted for construction phase services, and the final GMP; and

To authorize the City Manager to negotiate and execute change orders on the Durham Armory Upgrade Project, provided the total contract cost does not exceed \$2,088,870.00 which is the full amount budgeted for construction phase services plus the project contingency was approved at 7:28 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: AMENDMENT #5 PROFESSIONAL SERVICES CONTRACT FOR DATA  
PROJECT AND CONTRACT FOR CLAIMS AND LITIGATION  
SUPPORT FOR DATA PROJECT - ROBERT W. CARR, INC. - MBP  
CONSTRUCTION ENGINEERING, INC.**

**MOTION** by Council Member Woodard seconded by Council Member Catotti to authorize the City Manager to execute an amendment to the City of Durham DATA Operations, Maintenance and Administration Facility Project Agreement with Robert W. Carr, Inc. in an amount not to exceed \$86,500.00 so that the total contract amount will not exceed \$1,293,581.40;

To authorize the City Manager to make changes to the contract before executing it if the changes do not increase the fee to be paid by the City and do not decrease the goods and services to be provided to the City;

To establish a project contingency in the amount of \$40,000.00;

To authorize the City Manager to negotiate and execute change orders on the DATA Operations, Maintenance, and Administration Facility Project, provided the total contract amount does not exceed \$1,333,581.40 which is the full amount budgeted for construction phase services plus the project contingency;

To authorize the City Manager to execute a Contract for Claims and Litigation Support Services for the Durham Area Transit Authority ("DATA") Project with MBP Construction Engineering, Inc., in an amount not to exceed \$225,300.00; and

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To authorize the City Manager to make changes to the contract before executing it if the changes do not increase the compensation to be paid by the City and do not decrease the goods and services to be provided to the City was approved at 7:28 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: PROPOSED EASEMENTS TO DIAMOND VIEW II, LLC AND DIAMOND VIEW III, LLC AT THE DURHAM BULLS ATHLETIC PARK (DBAP)**

**MOTION** by Council Member Woodard seconded by Council Member Catotti to authorize the Conveyance of a Permanent Easement Approximately 296.90 Sq. Ft., and a Temporary Construction Easement Approximately 3,497.72 Sq. Ft. across Parcel # 103356 at the Durham Bulls Athletic Park to Diamond View II, LLC and Diamond View III, LLC for \$1,802.00 was approved at 7:28 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: HUD COOPERATIVE GRANT AND TRAINING FUNDING 2007-2008 - U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)**

**MOTION** by Council Member Woodard seconded by Council Member Catotti to authorize the City Manager to accept the City of Durham North Carolina and the U.S. Department of Housing and Urban Development (HUD) Cooperative Grant Funds by executing the grant documents; and

To adopt the City of Durham Grant Project Ordinance in the amount of \$60,426.00 superseding Grant Project Ordinance #13540 was approved at 7:28 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #13578**

**SUBJECT: CONTRACT WITH ICF, INTERNATIONAL INC., TO CONDUCT A WATER CONSERVATION PUBLIC EDUCATION CAMPAIGN**

**MOTION** by Council Member Woodard seconded by Council Member Catotti to authorize the City Manager to execute a one-year contract not to exceed \$400,000.00 with ICF, Inc., LLC to develop and implement a year-long water conservation campaign to stimulate Durham citizens, visitors and businesses to conserve water as a way of life; and

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To authorize the City Manager to make changes to the contract before executing it if the changes do not increase the dollar amount of the contract and do not decrease the services provided was approved at 7:28 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: MODIFICATION OF CITY OF DURHAM'S MINIMUM HOUSING CODE AND REMOVAL OF TRASH AND UNDERGROWTH FROM PROPERTY**

To adopt the proposed ordinances, which amend portions of Article VI of Chapter 10 of the Durham City Code pertaining to the Minimum Housing Code and Article VI of Chapter 26 of the Durham City Code pertaining to Removal of Trash and Undergrowth from Property.

**Note: By a vote of 7/0, the City Council referred this item back to the administration [Neighborhood Improvement Services Department] at the request of the City Manager.**

**SUBJECT: ANNUAL REPORT - DURHAM CITY-COUNTY APPEARANCE COMMISSION**

**MOTION** by Council Member Woodard seconded by Council Member Catotti to receive the 2007 Annual Report of the Durham City-County Appearance Commission was approved at 7:28 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: HIGH EFFICIENCY TOILET REBATE/CREDIT PROGRAM AND CONTRACT - NIAGARA CONSERVATION**

**MOTION** by Council Member Woodard seconded by Council Member Catotti to authorize the City Manager to execute a one-year contract not to exceed \$100,000.00 with Niagara Conservation to develop and implement a High Efficiency Toilet Rebate/Credit program to encourage Durham water customers to replace inefficient toilets with high efficiency toilets that use 1.28 gallons per flush; and

To authorize the City Manager to make changes to the contract before executing it if the changes do not increase the dollar amount of the contract and do not decrease the services provided was approved at 7:28 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: DOWNTOWN DURHAM MASTER PLAN, SEVEN YEAR REVIEW AND UPDATED WORK PLAN**

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**MOTION** by Council Member Woodard seconded by Council Member Catotti to adopt the Downtown Durham Master Plan, Seven Year Review and Updated Work Plan, January 2008 was approved at 7:28 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: CONSERVATION WATER RATES**

To adopt an Ordinance Amending Durham City Code Section 23-41 Monthly Rates for Water Service, Sewer Service and Water and Sewer Service.

**Note: By a vote of 7/0, the City Council referred this item back to the administration [Water Management Department] at the request of the City Manager.**

**SUBJECT: RESOLUTION MAKING CHANGES TO COUNCIL PROCEDURES FOR MAYORAL APPOINTMENTS TO BOARDS, COMMITTEES, AND COMMISSIONS AND REPEALING INCONSISTENT PROCEDURAL PROVISIONS**

**MOTION** by Council Member Woodard seconded by Council Member Catotti to adopt a Resolution Making Changes to Council Procedures for Mayoral Appointments to Boards, Committees, and Commissions and Repealing Inconsistent Procedural Provisions was approved at 7:28 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Resolution #9545**

**SUBJECT: RESOLUTION FOR THE ACQUISITION OF PROPERTIES IN THE ROLLING HILLS DEVELOPMENT**

**MOTION** by Council Member Woodard seconded by Council Member Catotti to adopt a Resolution Authorizing the City Manager to acquire real property or interests in real property for the Rolling Hills Development provided the purchase price of any individual property does not exceed \$120,000.00 and complies with all applicable conditions of the resolution was approved at 7:28 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Resolution #9547**

**SUBJECT: DURHAM BOARD OF ADJUSTMENT - MAYOR'S APPOINTEE**



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**MOTION** by Council Member Woodard seconded by Council Member Catotti to extend the term of Spurgeon Thurston (Mayor's Appointee) on the Durham Board of Adjustment to expire on June 30, 2009 in accordance with the interlocal agreement was approved at 7:28 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: EAST DECK FAÇADE TREATMENT (WEST AND SOUTH WALLS)**

**MOTION** by Council Member Woodard seconded by Council Member Catotti to approve the architectural façade treatment plan for the west and south walls of the East Deck was approved at 7:28 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: CONGESTION RELIEF/INTERMODAL TRANSPORT FUND**

**MOTION** by Council Member Woodard seconded by Council Member Catotti to direct the City Manager to work with the 21st Century Transportation Committee and other stakeholders as appropriate to modify the draft bill titled "Congestion Relief/Intermodal Transport Fund" to ensure that the bill is acceptable to the City of Durham and that the financial needs of the City to operate the Durham transit system are adequately addressed was approved at 7:28 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

*The City Council disposed of the following agenda items at the April 10, 2008 Work Session:*

**5. Bids – Furnish and Install Telecast System**

To accept the bid from Clark Powell Associates, Inc. in the amount of \$302,216.00 for furnishing and installing a Telecast System;

To authorize the City Manager to enter into a contract with Clark Powell Associates, Inc. in the amount of \$302,216.00 for furnishing and installing a Telecast System; and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract.

*(This item was approved at the 4/10/08 Work Session with a vote of 6/0)*

**20. Durham Police Department Reorganization**

To receive an update on the Durham Police Department Reorganization.

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*(A presentation was received at the 4/10/08 Work Session)*

**21. Satellite Imagery: A Crucial Resource In Stormwater Billing Presentation**

To receive a presentation on Satellite Imagery: A Crucial Resource in Stormwater Billing.

*(A presentation was received at the 4/10/08 Work Session)*

**27. Zoning Map Change – Fairfield at Hillandale (Z07-39)**

To conduct a public hearing and receive public comments on the zoning map change for Fairfield at Hillandale (Z07-39);

To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change case Z07-39 out of RS-M, RU-5 and CG and placing same in and establishing same as RU-M(D) and CG(D); and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials; or

Alternatively, in the event that a motion to approve the item fails, the Council adopts as support for its action on the proposed zoning map change the determination that, notwithstanding its consistency with the Comprehensive Plan, the request is neither reasonable nor in the public interest in light of information presented in the public hearing and in the accompanying agenda materials.

Staff Recommendation: Approval, based on consistency with the Comprehensive Plan, and considering the information contained in this report.

Planning Commission Recommendation and Vote: Denial, 10-1 on February 12, 2008. The Planning Commission finds that the ordinance request is consistent with the adopted Comprehensive Plan. The Commission does not believe this request is reasonable or in the public interest in light of the information in the staff report and comments received during the public hearing. The Commission recommends denial based on inconsistency with neighboring land uses, problems with traffic congestion, concerns regarding impacts on the environment and opposition from the community.

[The site is located at 2800, 2951 Bertland Avenue, and 2619 Omah Street, south side of Bertland Avenue, west of Omah Street, north of I-85 and east of Hillandale Road. PIN's: 0813-20-90-6113; 0823-17-00-0360, -3106)]

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*(This item was referred back to the Administration – City/County PlanningDept.)*

**30. JBG Towing and Recovery**

To receive comments from Jack Glenn regarding the City's towing rotation.

*(Comments were received at the 4/10/08 Work Session)*

**31. Durham Citizens Coalition**

To receive comments from Jack Steer regarding the 2008-09 Budget.

*(Comments were received at the 4/10/08 Work Session)*

**32. Ralph McKinney**

To receive comments from Ralph McKinney and Gail Winsloan regarding H.E.L.P. in Durham.

*(Citizen did not appear at the 4/10/08 Work Session)*

**34. Proposed Sale of Property at 521-B Eastway Avenue Pin# 0831-10-45-4546**

To determine the property at 521-B Eastway Avenue to be surplus;

To authorize the sale of the property under the authority of Section 86 of the City Charter;

To accept the offer to purchase for the property located at 521-B Eastway Avenue; and

To authorize the City Manager to sell and the Mayor to convey the properties by a non-warranty deed and authorize the City Manager to terminate these contracts for sale if the contract terms are not fulfilled.

*(This item was approved at the 4/10/08 Work Session with a vote of 6/0)*

**36. John Hunter**

To receive comments from John Hunter concerning Wynne Road problems.

*(Comments were received at the 4/10/08 Work Session)*

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**[GENERAL BUSINESS AGENDA]**

**SUBJECT: POLICE DEPARTMENT'S END OF YEAR REPORT**

To receive a presentation on the Police Department's End of Year Report.

City Manager Baker recognized Police Chief Lopez for the Police Department's end of Year Report 2007.

Police Chief Lopez gave a power point presentation on the 2007 Annual Crime Report. He gave an overview of the following: sworn staffing, number of years for a police officer to reach top pay in Durham--FY 2007-08 salaries in Raleigh and Area Agencies; pay study concerns, non-sworn staffing; crime rate definition, all index crimes 2004-2007 comparison, all index crimes 2007 percentage of crimes by category, all violent crimes 2004-2007 comparisons, all index property crimes 2004-2007 comparisons, violent crimes, murder 2004-2007 comparisons, rape 2004-2007 comparisons, robbery 2004-2007 comparisons; robbery suspects, aggravated assault 2004-2007 comparisons, property crimes, breaking and entering 2004-2007 comparisons, recovered stolen property, larceny 2004-2007 comparisons, motor vehicle theft, clearance rate comparison, clearance rates index crimes, what's new for 2008 and introduction of new prevention tool being used to prevent crime.

Council held discussion on non-sworn staffing vacancies and salaries of police officers.

Regarding the non-sworn staffing vacancies and salaries, Chief Lopez made comments on the recruiting efforts and the work that the City is conducting with the Waters Group in order to address the salary issue of police officers.

Council Member Clement asked staff to provide a district analysis of personnel needs to gain a better understanding of staffing.

Mayor Pro Tempore Cole-McFadden commented on the group called the explorers.

Council Member Woodard asked the Police Chief questions regarding the following: if documented gang membership is up or down and strategy for addressing gangs and if there has been an increase or decrease in use of firearms and illegal guns.

Police Chief Lopez indicated that he will provide information regarding illegal guns and gang membership.

Council Member Brown stated it is not acceptable for the City of Durham to take three times longer than other major cities in the state to reach top pay for police officers. Also he made comments on the exit interviews asking the Police Chief to provide a summary of why police officers are leaving the City of Durham during the upcoming budget discussion.

Police Chief Lopez commented on the bull's eye program noting a presentation will be given at another time. Also, Police Chief Lopez shared how the re-organization changes will address the

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issue of displacement.

**Note: No action was taken by the City Council on this item.**

**SUBJECT: DEVELOPMENT REVIEW PROCESS**

To receive a presentation on the Development Review Process.

City Manager Patrick Baker recognized Deputy City Manager Ted Voorhees for comments.

Deputy City Manager Voorhees gave an update on the development review process. He gave a summary of the power point presentation dated April 21, 2008 explaining the following categories:

Development review process improvement

Background

Development review process flow

Recommendation/result

School of Government [SOG] Benchmarking project

City of Durham - Best Practice Stakeholders Engagement, Best Practice [Process Structure];

Best Practice--Process Management Tools;

In the Pipeline;

Future efforts;

Stakeholder Feedback

Issues for Council

Council expressed concern regarding no timelines for addressing recommendation/result category and number of triage meetings held--#6 under Results.

To address the Mayor's concern of not being able to consolidate zoning/site plan, site plan/construction drawings and site plan/S&E plans, Deputy City Manager Ted Voorhees reported there are issues regarding the code and follow-ons.

Mayor Bell stated he is looking for some clear things that have come out where we have made a difference in the development review process. Mayor Bell made comments on the issue of addressing problems from the development and residential communities.

Council Member Clement made comments on continuing this discussion to the next Work Session.

Mayor Bell explained why this item was on the agenda tonight.

Council Member Clement asked staff to report back with specifics timelines for the recommendation/results mentioned in the power point presentation at the next Work Session.

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Council Member Woodard asked staff to broadly define the meaning of stakeholders when the stakeholder education series is developed. He made comments on the request that he made to the Planning Department to include in the staff report a schedule/tracking mechanism so that Council could review dates for each rezoning and/or other planning matters. He requested staff to give their recommendation regarding the open space, parks and road impact fees at the upcoming work session and also to include this item in the next work session agenda cycle.

Council Member Brown made comments on the development review process highlighting comments from the consulting firm MWH and Capital Program Advisory Committee's report regarding project management and the development review process.

Council Member Catotti made comments on the MWH and Capital Program Advisory Committee's recommendation regarding the issue of contract authority of the City Manager. She requested that the contract authority of the City Manager be discussed at the next Work Session.

**Note: No action was taken by the City Council on this item. This issue will be discussed at the April 24, 2008 Work Session.**

**[GENERAL BUSINESS AGENDA – PUBLIC HEARINGS]**

**SUBJECT: DRAFT FY 2008-09 ANNUAL ACTION PLAN FOR THE USE OF CDBG, HOME AND ESG FUNDS**

To conduct a public hearing to receive public comments on the Draft 2008-2009 Annual Action Plan for the use of CDBG, HOME and ESG funds.

Community Development Director Larry Jarvis introduced the Federal Program Coordinator Wilma Conyers who has been with the City since January. Mr. Jarvis stated the purpose of the public hearing is to receive public comments on the funding recommendations for federal funding. He informed Council that the public hearing for the County Commissioners was held last Monday and reported staff will be coming back to Council on May 5 for approval of the Annual Action Plan that must be submitted to HUD by May 15, 2008.

Mayor Bell opened the public hearing.

Dabney Hopkins, representing Durham People's Alliance, made comments in support of the goals of the Campaign for Decent Housing. She asked Council to dedicate one cent of the tax rate for affordable housing to have sustainable funding to implement the ten-year plan to end homelessness; 2) increase community development block grants available for affordable housing and neighborhood revitalization; 3) forgive code penalties if a current or new owner invests at least as much to bring homes up to code in a timely fashion; 4) City and County ensure that new housing developments include at least 20% long term affordable housing for homebuyers, low income rentals and/or low income person with special needs.

Gene Cook, representing Rebuild Durham, asked Council to include their grant request of

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\$24,000 in the 2008-09 Action Plan.

Chris Quinn, representing Rebuild Durham, made comments regarding the plans for Rebuild Durham to raise additional funding to meet their operating expenses. He urged Council to support their request for funding.

Lenora Smith, representing PEACH, spoke in support for the Durham Affordable Housing Coalition and the Campaign for Decent Housing goals for 2008-09. She made comments on the lead paint issue in older housing and urged Council to approve funding in housing and neighborhoods surrounding the downtown area.

Dan Levine, representing Self Help, made comments in support for the goals of the campaign for Decent Housing. He stated there is a need for the City to provide more local funds in support of more direct housing and community development activity in the neighborhoods.

Jack Preiss made comments in favor of the City dedicating one cent for housing.

A member of the Rebuild Durham Board spoke in support of funding for Rebuild Durham.

George Dixon made comments on the spring break training program for teens through the Durham Affordable Housing Coalition and thanked Council for supporting the Coalition.

Lorisa Seibel asked the audience to stand if they were in support of housing.

Mayor Bell closed the public hearing.

Community Development Director Larry Jarvis explained why Neighborhood Improvement Services [NIS] was not granted funding.

Mayor Pro Tempore Cole-McFadden asked staff to provide how many families were assisted by Neighborhood Improvement Services in the past.

**MOTION** by Council Member Clement seconded by Council Member Woodard to receive public comments on the Draft 2008-2009 Annual Action Plan for the use of CDBG, HOME and ESG funds was approved at 9:14 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENT – TUSCALOOSA-LAKEWOOD NEIGHBORHOOD PROTECTION OVERLAY (TC06-08)**

To conduct a public hearing to receive public comments on the Unified Development Ordinance (UDO) Text Change – Tuscaloosa-Lakewood Neighborhood Protection Overlay (TC06-08); and

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To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, incorporating revisions to Article 4, Zoning Districts.

Michael Stock, of the City/County Planning Department, asked Council to hold one public hearing for the text amendment and the Zoning Map Change since both items are related; however, he requested that separate motions be taken on each item.

For clarification, Interim City Attorney Karen Sindelar stated Council would be combining the public hearings, but voting on the two items separately.

At this time during the meeting, Mayor Bell opened the public hearing for Items 24 [Unified Development Text Amendment - Tuscaloosa-Lakewood Neighborhood Protection Overlay] and 25 [Zoning Map Change - Tuscaloosa-Lakewood Neighborhood Protection Overlay--Z06-46].

Michael Stock, of the City/County Planning Department, certified that proper notifications for both the text amendments and the zoning map change have been made and affidavits are on file. Since the passage of the UDO in January 2006, he reported this is the first case of the neighborhood protection overlay. He briefed Council on the text amendment commenting on the protection for landscaping --tree preservation and design standards.

### **Proponent**

Frances Kerr, of 2608 Nation Avenue, provided background information on this item and made comments in support for the text amendment and zoning map change. She gave a power point presentation on the Neighborhood Protection Overlay of Tuscaloosa-Lakewood Neighborhood highlighting: the character, trees, streetscape, and single-family homes/duplexes/commercial development. She stated this change will guide development and help preserve the vitality of this distinctive Durham neighborhood now and for those who come to enjoy and care for it. Finally, she asked everyone who supports the NPO of Tuscaloosa-Lakewood Neighborhood to stand in support and urged Council to support this item.

### **Opponents**

Kim Griffin, Jr., of 1816 Front Street, stated he owns property in this area. He made comments on the neighborhood association meeting commenting on the preservation of trees. He urged Council to develop creative design standards that could be applied throughout the City of Durham. He commented on the following: the ordinance pertaining to pine trees not being a tree, the undeveloped/developed area, flag lots, garage and expressed concern with design review team being another step on the development review process.

Janet Wellman, of 1605 W. Lakewood Avenue, stated she is not against the ordinance, but expressed concern that this area [Tuscaloosa-Lakewood] does not include all of the Lakewood Historic District--the National Register Historic District. She stated she could support the ordinance as proposed, but in very short order-- adding the rest of the national register Lakewood Park district to this overlay district so that it is complete.



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Mayor Bell closed the public hearing for the text amendment and the zoning map change for Tuscaloosa-Lakewood Neighborhood Protection Overlay.

Michael Stock of the City/County Planning Department briefed Council on the responsibility of the Design District Review Team and its membership.

City/County Planning Department Director Steve Medlin stated the membership of the Design District Review Team is established by ordinance.

A resident of 1408 James Street and Christian Ferney, President of Tuscaloosa-Lakewood Neighborhood Association explained why the entire National Register District was not included in the overlay.

Several members of the Council thanked the community for their hard work in crafting the neighborhood protection overlay.

**MOTION** by Council Member Clement seconded by Council Member Catotti to receive public comments on the Unified Development Ordinance (UDO) Text Change – Tuscaloosa-Lakewood Neighborhood Protection Overlay (TC06-08); and

To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, incorporating revisions to Article 4, Zoning Districts was approved at 9:49 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #13579**

**SUBJECT: ZONING MAP CHANGE – TUSCALOOSA-LAKEWOOD  
NEIGHBORHOOD PROTECTION OVERLAY (Z06-46) – TUSCALOOSA-  
LAKEWOOD NEIGHBORHOOD ASSOCIATION [TLNA]**

To conduct a public hearing to receive public comments on the zoning map change for Tuscaloosa-Lakewood Neighborhood Protection Overlay (Z06-46);

To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change case Z06-46 out of RS-10, RS-8, RS-M, RU-5, RU-5(2), RU-M, CN and placing same in and establishing same as RS-10, RS-8, RS-M, RU-5, RU-5(2), RU-M, CN; -P; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials.

Alternatively, in the event that a motion to approve the item fails, the Council adopts as support for its action on the proposed zoning map change the determination that, notwithstanding its

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consistency with the Comprehensive Plan, the request is neither reasonable nor in the public interest in light of information presented in the public hearing and in the accompanying agenda materials.

Staff Recommendation: Approval, based on consistency with the Comprehensive Plan, and considering the information contained in this report.

Planning Commission Recommendation and Vote: Approval, 9-1 on February 12, 2008. The Planning Commission finds that the ordinance request is consistent with the adopted Comprehensive Plan. The Commission believes the request is reasonable and in the public interest and recommends approval based on the information in the staff report and comments received during the public hearing.

[The site includes multiple properties north of Durham – Chapel Hill Boulevard, south of Lakewood Avenue, west of James Street and east of Chapel Hill Road.]

**Note: Discussion for this item was held during the Unified Development Ordinance Text Amendment – Tuscaloosa-Lakewood Neighborhood Protection Overlay presentation.**

**MOTION** by Council Member Woodard seconded by Council Member Catotti to receive public comments on the zoning map change for Tuscaloosa-Lakewood Neighborhood Protection Overlay (Z06-46);

To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change case Z06-46 out of RS-10, RS-8, RS-M, RU-5, RU-5(2), RU-M, CN and placing same in and establishing same as RS-10, RS-8, RS-M, RU-5, RU-5(2), RU-M, CN; -P; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials was approved at 9:50 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #13580**

**SUBJECT: ZONING MAP CHANGE – EXETER APARTMENTS (Z0800005) –  
DEVELOPMENT VENTURES, INC./DURHAM HOUSING AUTHORITY  
– NORTH GOLEY STREET AND SOUTH OF MORNING GLORY**

To conduct a public hearing and receive public comments on the zoning map change for Exeter Apartments (Z0800005);

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To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change case Z0800005 out of RU-5(2) and placing same in and establishing same as RC; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials.

Alternatively, in the event that a motion to approve the item fails, the Council adopts as support for its action on the proposed zoning map change the determination that, notwithstanding its consistency with the Comprehensive Plan, the request is neither reasonable nor in the public interest in light of information presented in the public hearing and in the accompanying agenda materials.

Staff Recommendation: Approval, based on consistency with the Comprehensive Plan, and considering the information contained in this report.

Planning Commission Recommendation and Vote: Approval, 11-0 on March 11, 2008. The Planning Commission finds that the ordinance request is consistent with the adopted Comprehensive Plan. The Commission believes the request is reasonable and in the public interest and recommends approval based on the information in the staff report and comments received during the public hearing.

[The site is located at the east and west sides of North Goley Street, south of Morning Glory Avenue. PIN: 0831-14-44-0267, -1215, -1294, -1270, -1126, -2186, -3122, -2059, -43-1996, -2945)]

City/County Planning Director Steve Medlin certified that proper notification has been carried out in accordance with the UDO and state standard and stated affidavits have been prepared and are a part of the case file. He briefed Council on the staff report commenting on the zoning map change, site and use. He stated staff is recommending approval of this request because of its consistency with the Comprehensive Plan and of its ability to be developed in accordance with the UDO standards and that the Planning Commission approved this request.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

**MOTION** by Mayor Pro Tempore Cole-McFadden and Council Member Catotti to receive public comments on the zoning map change for Exeter Apartments (Z0800005);

To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change case Z0800005 out of RU-5(2) and placing same in and establishing same as RC; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest in

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light of information presented in the public hearing and in the accompanying agenda materials was approved at 9:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #13581**

**SUBJECT: STREET CLOSING - A PORTION OF RUSTICA DRIVE BETWEEN ED COOK ROAD AND SOUTH ALSTON AVENUE (SC07-11) – RUSTICA ASSOCIATES, LLC**

To conduct a public hearing and to receive public comments on the closing of a 1,312.31 portion of Rustica Drive between Ed Cook Road and South Alston Avenue; and

To adopt an Order permanently closing a 1,312.31 portion of Rustica Drive between Ed Cook Road and South Alston Avenue as identified.

City/County Planning Director Steve Medlin briefed Council on the street closing. He reported this request has been reviewed by all agencies and they have no comments or concerns related to this request. He certified that advertisements have been made in accordance with state standards and staff is recommending approval of this request.

Mayor Bell opened the public hearing.

Ron Horvath, representing the applicant, stated he was present to answer questions.

No one spoke in opposition to this request.

Mayor Bell closed the public hearing.

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to receive public comments on the closing of a 1,312.31 portion of Rustica Drive between Ed Cook Road and South Alston Avenue; and

To adopt an Order permanently closing a 1,312.31 portion of Rustica Drive between Ed Cook Road and South Alston Avenue as identified was approved at 9:53 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #13582**

**SUBJECT: RIGHT-OF-WAY CLOSING - EXCESS RIGHT-OF-WAY FOR MARTIN LUTHER KING, JR. PARKWAY (SC07-12) – WITHERS AND RAVENEL**

**April 21, 2008**

To conduct a public hearing to receive public comments on the closing of a 436.95 linear foot portion of Martin Luther King, Jr. Parkway between Industry Lane and Fayetteville Road; and

To adopt an Order permanently closing a 436.95 linear foot portion of Martin Luther King, Jr. Parkway between Industry Lane and Fayetteville Road as identified.

City/County Planning Director Steve Medlin briefed Council on the staff report. He reported this request has been reviewed by all agencies and they have no comments or concerns related to this request and stated the right of way will be reverted back to the adjacent property owner if Council approves this request. He stated staff is recommending approval of this request.

Mayor Bell opened the public hearing.

Chris Sanders, representing an owner, stated he was present to answer questions.

Mayor Bell closed the public hearing.

**MOTION** by Council Member Woodard seconded by Council Member Brown to receive public comments on the closing of a 436.95 linear foot portion of Martin Luther King, Jr. Parkway between Industry Lane and Fayetteville Road; and

To adopt an Order permanently closing a 436.95 linear foot portion of Martin Luther King, Jr. Parkway between Industry Lane and Fayetteville Road as identified was approved at 9:55 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #13583**

There being no further business to come before the City Council, the meeting was adjourned at 9:55 p.m.

Linda E. Bratcher  
Deputy City Clerk

D. Ann Gray, CMC  
City Clerk